ssm

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.774 OF 2005

Chandrabhan Shankarrao Malunjkar ...Appellant.

Vs.

M.I.D.C. & Ors. ...Respondents.

Mr. M.S.Karnik for the appellant.

Mr. P.P.Chavan i/by M/s. Little & Co. for the respondents.

CORAM : ANOOP V. MOHTA,J.

DATED : 24th July, 2007

P.C.

1. The appellant, being aggrieved by the reversal order, whereby the appellate Court after considering the facts and circumstances of the case, concluded, by holding that the plaintiff/ appellant is not entitled to purchase plot No.7 as of right at the rate of Rs.133/- per Sq. meter. In the result, there was no question of the declaration and injunction as prayed. The appellate Court, therefore, has reversed the Judgment and decree passed by the Trial Court, whereby the appellant's suit was decreed and it was declared that the plaintiff/appellant was entitled to purchase

the suit plot in question.

2. Admittedly, the respondents/ defendants have not contested the said proceedings before the trial Court by filing written Statement. Still the question remained is, whether the appellant or such other person is entitled to claim as of right that the respondent- Maharashtra Industrial Development Corporation (MIDC) be compelled to direct to allot the plots. Considering the whole purpose of such corporation, no citizen, as of right is entitled to claim such right. In the present case after invitation of tenders by way of publication in the year 1991 the respondents had not granted/ considered to allot the said adjacent plot for running any hotel business. The suit was filed in the year 1991 and the same was decreed by the Trial Court but rightly set aside by the appellate Court.

3. The learned counsel appearing for the appellant, basically contended that the respondents thereafter, issued a circular dated 24th January, 1994 and taken note that the such person like plaintiff/appellant is entitled to purchase the said plot. The appellate Court, is right on the basic fact that the said

circular is dated 24th January, 1994 i.e. after the basic tender as well as the suit in question. Therefore, no benefit could be given to the plaintiff/appellant.

4. Taking note of all these facts, I am of the view that there is no case made out by the appellant to interfere with the findings and reasoning arrived at by the appellate Court.

5. Resultantly, the Second Appeal is dismissed.

(ANOOP V. MOHTA, J.)